IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark LANDESMANN

Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES

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Examiner: Unassigned

Art Unit: 2161

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.102 and M.P.E.P. 708.02 VIII (SPECIAL EXAMINING PROCEDURE FOR CERTAIN NEW APPLICATIONS—ACCELERATED EXAMINATION), applicant hereby requests that the above-captioned application be granted special status and examined expeditiously. In support of this Petition, applicant submits the following under lettered headings that correspond with the lettered paragraphs of M.P.E.P. 708.02 VIII.

(A)   Petition and Fee Submitted

This Petition is supported by the enclosed check in the amount of $130, which covers the required petition fee (37 C.F.R. § 1.17(i)). Please charge any deficiency or credit any overpayment to our Deposit Account No. 19-0741.

(B)   Single Invention Claimed

Applicant believes that all of the claims of the present application are directed to a single invention. Additionally, applicant hereby states that if all claims presented are not obviously directed to a single invention, that applicant will make an election without traverse in response to an Examiner's telephone request.

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(C)   Pre-Examination Search Made

A pre-examination search was conducted by a professional patent search firm. The search was conducted in the following areas of classification: Class 705 "Data Processing: Financial, Business Practice, Management, or Cost/Price Determination", Subclasses 14, 16, 30, 35, 36, 37, 38, and 39. In addition, a key word search was performed on the U.S.P.T.O. full-text database including published U.S. patent applications. Additionally, the following on-line commercial databases were searched: INSPEC (1969-present); NTIS: National Technical Information Service; Ei Compendex; JICSP-EPLUS-Japanese Science and Technology; Wilson Applied Science and Technology Abstracts; ACM Conferences; Communications of the ACM; IBM Technical Disclosure Bulletins; and the World Wide Web.

(D)   Copies of the References

From the search results, applicant has identified the references most closely related to the subject matter encompassed by the claims of the present application: 5,459,306 to Stein et al.; 5,592,560 to Deaton et al.; 5,761,648 to Golden et al.; 5,970,469 to Scroggie et al.; 6,026,370 to Jermyn; 6,055,573 to Gardenswartz et al.; 6,026,370 to Jermyn; 6,009,411 to Kepecs; 6,014,634 to Scroggie et al.; and WO 00/62184 A2 to Ng et al. Additionally, the following other literature was obtained: "Marketing Information on the I-Way-Data Junkyard or Information Gold Mine?", Kannan et al., Communications of the ACM, March 1998, Volume 41, No. 3, pages 35-43; the web site "Blue Martini Software/Customer Case Study/Gymboree", http://www.gymboree.com; the web site "Instant Marketing", http://www.informationweek.com/746/mkt.html; the web site "Blue Martini Software/Applications/Commerce", http://www.gymboree.com; various IEEE abstracts and a Communications of the ACM article. Copies of these references have been attached and are discussed herein as mandated by M.P.E.P. 708.02. Other references discovered during the search, which are believed to be less relevant than those discussed herein, have been submitted concurrently herewith in an Information Disclosure Statement.

(E)   Detailed Discussion of References and Patentability of Claimed Invention

Specifically, the present invention is based on the inventor's opinion that past purchase history from multiple third party vendors is by far the best predictor of future purchase behavior for many products and services. It is further the inventor's opinion and a premise of the present invention that the best way to predict a buyer entity's propensity to become a valuable repeat customer of these products in the future is to look at his/her past purchase history. It is further the inventor's opinion that without verifying the reliability of buyer entity's expressions of intent through the use of past purchase histories, any information from the potential buyer entity becomes less reliable and preferably should not be used to provide some buyer entities with significantly higher rewards and incentives than other buyer entities. The present invention provides, in a general aspect, a computer implemented method of facilitating buyer/driven target marketing involving buyer entities and various merchants. It is one of the purposes of the present invention to provide a mechanism for buyer entities to make significant parts of their past purchase histories available to marketers, but with minimal invasion of privacy for the buyer entity. Note that a buyer entity is defined to encompass both individuals and businesses.

The basic function performed by the system and method of the present invention is to allow buyer entities to submit their credit card statements and other records that detail past purchases to an entity that is preferably not affiliated with any particular merchant. The system allows an advertiser who sells a particular category of products or services, to target promotions to consumers based on the consumer's purchase history in that specific category. The alternative is to try to infer the purchases of a consumer in the relevant category from purchases in other product categories, which is cumbersome and unreliable. The inference model robs the data of much of its potential value to the advertiser, and it also deprives the consumer from using the data to gain as much bargaining power and leverage as possible. The reason that data must come from the buyer to be used for competitive targeting, is that the only other entity initially controlling the purchase information is the seller, and sellers will not make this data available for competitive targeting to other (competing) sellers without being offered a countervailing benefit by these competing sellers. Third party marketers/advertisers would then provide search criteria or have search criteria selected for them, to search the database of past histories and offer highly attractive promotions to the group

resulting from that search criteria. Note that there are a variety of different aspects and features of the present invention which may be added to this basic concept, including the concept of scoring buyer entities based on their purchase histories and other information and the use of interactive and other television and web methods.

More specifically, in a first aspect of the present invention, a method for buyer-driven targeting is provided which comprises the steps of separately receiving from each of a plurality of buyer entities a respective third party proof of purchase record; entering information contained in the received proof of purchase record into a searchable electronic database; obtaining search criteria for the database; searching the information in the database based on the search criteria to obtain a group of buyer entities; and providing an incentive to a plurality of the buyer entities in the group.

All of the references cited below are missing one or more of the following elements. First, the information that is used for targeting must comprise third party proof of purchase records. It is essential that the information used comprise, at least in part, such records because past purchases are the best predictor of future purchases, therefore past purchase information is superior to other kinds of profiling and targeting information. If the information is not third party proof of purchase records, but comprises instead unverified information, it cannot reliably be used to give better rewards to some consumers than to others. Additionally, the proof of purchase record should be provided by the user (the buyer entity) so that the buyer entity controls the initial submission of the proof of purchase records, and so that the buyer entity does not need the specific consent or continued active cooperation of the seller to submit the purchase record into the system of the present invention. The buyer entity receives these purchase records because he is entitled to such records, and the records are often provided to him/her in digital form for his/her convenience and because that is the standard expected today of many credit card and other companies.

The results of the use of third party proof of purchase records and/or having the proof of purchase records submitted by the buyer entity is that 1) because the information comes from the buyer entity, it can be used for competitive targeting; and 2) because the buyer entity benefits from and has a stake in the use of the information by the system of the present invention, he/she will be more likely to give permission to receive marketing materials with exclusive promotions via the web, e-mail, direct mail and other channels; and he/she will work to augment his/her profile by including multiple

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types of purchase records and by amplifying his/her profile with answers to specific questions and other information.

Referring now to the first reference, Stein et al. (5,459,306) discloses a method and system for delivering movie picks based on a past history of the user selecting other movies in a particular category, such as westerns or romances. This operation is facilitated by storing past customer selections of movies, which movies had previously been placed into certain classifications. These movie recommendations are identified in a coupon controller 9, which creates and transmits graphic commands to a printer 7 to print coupons for additional movies. These coupons may then be provided to the customer at the movie rental checkout counter. See col. 6 of the patent.

The Stein et al. patent does not include the step of obtaining third party proof of purchase records, but rather uses proof of purchases of movies within its own system to offer additional movies to the consumer at the checkout counter. Additionally, this proof of purchase information is not obtained from the buyer entity, but rather is obtained from within the system itself.

Referring now to Deaton et al. (5,592,560), this patent is directed to a system for performing retail targeted marketing on customers. The system comprises a terminal for entering selected indicia from identification presented by customers at a point-of-sale location in order to generate an identification code for each customer. A reader detects the machine readable product code on products purchased by the customer. A processor responsive to the terminal and the reader also creates a centralized database of the store's customer data relating to product codes of products purchased by its customers during previous visits, in association with customer unique identification codes. The processor generates a signal upon entry of identification codes of customers whose transactions meet predetermined product purchasing history criteria. Circuitry responsive to the processor and the database then dispense sales promotions at the point-of-sale location to the customers who meet the predetermined product purchasing history criteria. In one embodiment of this invention, targeted coupons are provided based on the past purchasing histories of the customers. See col. 63, lines 49-67. Note that the Deaton et al. '560 patent does not perform the step of obtaining third party proof of purchase records. Additionally, the proof of purchase records are not obtained from the buyer entity, but rather from within the system itself.

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Referring now to the patent to Golden et al. (5,761,648), there is disclosed a data processing system and method for use in dispensing and using electronic coupons on-line (referred to as electronic certificates) to consumers. See col. 3, line 61. The consumer may use one or more methods to redeem the coupon. The consumer can upload to the system demographic information including consumer data or profile data. See col. 4, lines 42-45. It is further noted that coupon issuers may upload information to the system on coupon use. See col. 4, lines 54-56. Commands can also be issued by the coupon issuer to limit coupon distribution by area or by a consumer's household profile. See col. 4, lines 65-67. The coupon issuer can also access the system for coupon usage history to determine the remaining number of previously issued coupons. See col. 5, lines 9-11. It is stated that a coupon issuer can display information about those who have selected the issuer's coupon, and break down such use by such factors as region and demographics. See col. 5, lines 18-21. It should be noted that to the extent that coupon usage can be considered past purchase information, it is generated by the system itself, rather than from third parties. Accordingly, there is no receiving of third party proof of purchase records. Additionally, there does not seem to be any disclosure of aggregating these past proof of purchase records across a variety of different merchants. The past purchase records are made entirely within the system itself. Additionally, there is no disclosure that the consumer is uploading any past purchase history records.

Referring now to the patent to Scroggie et al. (5,970,469), there is disclosed a system and method for delivering purchasing incentives and other retail shopping aids through a computer network. Customers of retail stores can establish a bi-directional communication link with the system and then elect to browse among available purchasing incentive offers. For purchase incentives redeemable at retail stores, the customer must provide identification information and must also designate a retailer at which the purchasing incentive can be exercised. For receipt of a focused incentive based upon the customer's past shopping behavior, the customer must also supply a unique customer ID, such as a check cashing card or credit card number, that was used for in-store purchases. Because a store can track the purchasing history of each customer who consistently uses the same customer ID when paying for purchases, a customer who supplies this customer ID to the on-line system of the present invention may then receive more targeted incentives based on his or her prior purchasing history.

See col. 4, lines 33-45. At col. 12, lines 10-63 it is stated that the shopping behavior of customers is routinely tracked in connection with the generation of in-store incentives in the form of discount coupons printed as the customer pays for his or her purchases. Each customer's purchasing behavior is tracked only if the customer provides some form of unique identification during the purchase transaction, such as a check-cashing card, a credit card, or other form of identification. The purchase of any of a number of selected items can then be associated with the specific customer ID, and inputted to a database of customer purchase histories maintained by a systems administrator. When the customer visits that store again, a focused incentive may be printed based on a selected event in the customer's past shopping behavior.

It can be seen from the above description of Scroggie et al., that the purchasing history is not being provided by the buyer entity, but rather directly from the store that provides the incentives or is actively cooperating with the provision of such incentives. Additionally, there does not appear to be any aggregation of this past proof of purchase information across different retailers and merchants.

Referring now to Gardenswartz et al. (6,055,573), there is disclosed a method, system, and computer program for delivering targeted advertising based on the observed offline purchase history of a consumer. In one of the embodiments, the consumer is classified by assigning to the consumer a purchase behavior classification. The purchase behavior classification is based on selected purchase behavior criteria and the consumer's are observed offline purchase history. The targeted advertisement is selected based on the purchase behavior classification assigned to the consumer. See col. 3, lines 21-57. The system appears to be directed to use with a single merchant having a plurality of stores 2, 4, and 6. A purchase history database 8 is provided for storing purchase data received from the stores 2, 4, and 6. See col. 6, lines 10-11. A separate master record 30 for each consumer ID is maintained in the purchasing history database 8. The master record 30 may be implemented as a data structure that includes a field 31 for storing the customer's ID as well as a table 32 for identifying and describing each purchase made by the consumer. See col. 8, lines 9-17. At column 10, lines 3-9, it is stated that the purchase history database 8 is populated with the actual, monitored, or observed offline purchase histories of the consumer in step 500. In step 504, the registered consumers are classified by assigning each consumer a purchase behavior classification. The purchase behavior classification is assigned to

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each consumer according to predefined purchase behavior criteria applied to the consumer's observed offline purchase history. Then targeted advertisements are selected based on the purchase behavior classification assigned in step 504. See col. 10, lines 16-27.

Accordingly, it can be seen that the Gardenswartz et al. patent does not obtain third party proof of purchase records, but rather obtains purchase records from multiple stores of a single merchant. Additionally, these purchase records are not provided by the buyer entity. Moreover, there is no evidence that any third party proof of purchase records are ever aggregated in a database for purposes of searching.

Referring now to the patent to Jermyn (6,026,370), there is disclosed a technique for customizing mailed purchase incentives to selected consumers based on purchase histories. It is noted that the system may be used to consolidate the shopping histories of individual consumers who shop at different store chains. See column 2, lines 6-17; column 4, lines 32-37 and 62-67; column 5, lines 15-40. However, there is no indication that a database is formed by performing the step of receiving from multiple buyer entities third party proof of purchase records.

Referring now to the patent to Kepecs (6,009,411), there is disclosed a method and system for creating a microhistory of a consumer's purchases, which may then be used to facilitate promotional targeting. See column 9, beginning at line 62. However, there is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Referring now to the patent to Scroggie et al. (6,014,634), there is disclosed a system that allows a store to track the purchasing history of each customer, in order to provide targeted incentives to that selected customers. However, there is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Referring now to the application of Ng (WO 00/62184), there is disclosed a system and method for providing and managing an advertising and incentive program to encourage a user to view an electronic advertisement or to encourage the user to purchase a particular product. It is stated at page 4 that the system provides a simple and efficient method for vendors to keep track of coupons redeemed for particular purchases. When a customer submits a unique product identifier after purchasing a product, the vendor of the product simply has to verify whether the unique identifier

was a valid purchase. It is further stated that each time the system is used to make a purchase or redeem a coupon, the invention records the purchases or redemptions made by the customer. At page 10, it is stated that in addition to storing general information about a particular user, the user profile database 126 may store information on a user's selections and viewing activity with respect to advertisements and may also collect information on specific products or services purchased by the user by obtaining such information from the incentive redemption manager 132 or from the vendor server 108. It is further stated at page 18 of the application that the invention may use information about the history of user purchases and click-views to target the advertisements to be displayed to a particular user. In other words, the present invention may analyze the user profile database 126 and the user's usage of the system to create a summary of the user's particular interests. A similar statement about the use of the user's purchasing history or the user's coupon redemption history for providing targeted advertisements is found on page 19. It can be seen from a review of the foregoing Ng application that third party proof of purchase records are not obtained. Rather, purchase records are obtained from within the system.

Referring now to the non-patent literature, entitled "Customer Case Study" for Blue Martini Software, this literature discusses the use by Gymboree of the purchase histories that the company has generated on its own system while selling its own products. It is noted that there is no disclosure of the receipt of third party proof of purchase records, and there is no disclosure of the uploading or provision of such records by a plurality of buyer entities.

Regarding the Blue Martini Software/Applications/Commerce web site, there is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

The "Instant Marketing" web site discusses using the Blue Martini system to analyze the purchase history of individual customers. See the analysis of the Blue Martini system above. Again, there is no disclosure of receipt of third party proof of purchase records, and there is no disclosure of the uploading or provision of such records by buyer entities.

Regarding the abstract of the INSPEC article "Buying into Incentives," there is no indication that the database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Regarding the abstract of the INSPEC article "Interactive Marketing Interface: iMi," this article notes that iMi will evolve toward a database that stores customer plans to make purchases in the future. There is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Regarding the abstract of the INSPEC article "Reducing buyer search costs: Implications for electronic marketplace," This article argues for the importance of better mechanisms for matching buyers and sellers, but does not propose or discuss a database formed by performing the step of receiving from buyer entities third party proof of purchase records.

Regarding the abstract of the INSPEC article "Characteristics of electronic markets," there is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Regarding the Communications of the ACM article "Marketing Information on the I-Way," there is no indication that a database is formed by performing the step of receiving from buyer entities third party proof of purchase records.

Inasmuch as all of the requirements for special status under M.P.E.P. 708.02 VIII have been met, it is respectfully requested that the application be granted special status, and be examined expeditiously.

Respectfully submitted,

Date <u>September 24, 2001</u>   By _____

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